IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9455 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the Civil Judge?

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VAGHELA MANISHKUMAR RANCHHODBHAI - Petitioner(s)
Versus
KALOL MUNICIPALITY & 2 - Respondent(s)

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Appearance :
MR GM JOSHI for Petitioner.
NOTICE SERVED BY DS for Respondents.
MR MI PATEL for Respondent Nos.1 and 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 08/11/2006

ORAL JUDGMENT

1. By way of this petition, under Article 226 of the Constitution of India, the petitioner has prayed for appropriate orders quashing and setting

aside the order dated 05.11.1996 issued by respondent No.1 i.e. President, Kalol Municipality in favour of respondent No.3 appointing as a Food Inspector.

2. It is to be noted that during the pendency of the present Special Civil Application, while admitting the present Special Civil Application, this Court granted ad interim relief, directing that respondent No.3 shall not be permitted to discharge duties as Food Inspector, pursuant to the order dated 5.11.1996. The said ad interim relief was subsequently confirmed.

3. It appears from the record, and it is the contention on behalf of the petitioner that respondent No.3 was not having requisite qualification for the post of Food Inspector and in spite of that he was appointed dehors the provisions of Prevention of Food Adulteration Act, 1953 as well as the Rules. It is submitted that respondent No.3 was having qualification of B.A. only and as he was not holding the requisite qualification which is required for the post of Food Inspector, his appointment is bad in law and illegal, which is required to be quashed and set aside.

4. There is no counter reply filed by any of the respondents contravening the allegations in the petition that respondent No. 3 was not having any requisite qualifications, which is required for the post of Food Inspector. It is to be noted that the post of Food Inspector is very important post with full responsibility. If any person is appointed as Food Inspector dehors the provisions of the Act and Rules, who is not having requisite qualification, then prosecution under the Food Adulteration Act will fail.

4. As per Rule 8 of the Prevention of Food Adulteration Rules, 1955, a person shall not be qualified for appointment as Food Inspector unless he:

(a) is Medical Officer in charge of health administration of local area or

(b) is a graduate in medicine and has received at least one month's training in food inspection and sampling work approved for the purpose by Central Government or State Government; or;

(C) is graduate in Science with Chemistry as one

> of the subjects or is a graduate in Agriculture or Public Health or Pharmacy or in Veterinary Science or a graduate in Food Technology or Dairy Technology or is a diploma holder in Food Technology or Dairy Technology from a University or Institution established in India by law or has equivalent qualifications recognized and notified by the Central Government for the purpose and has received three month's satisfactory training in food inspection and sampling work under a Food (Health) Authority or in an institution approved for the purpose by the Central Government.

5. If respondent No.3 is not having requisite qualification as prescribed under Rule 8 and is only B.A., naturally respondent No.3 could not have been appointed as Food Inspector. Under the circumstances, the petition requires to be allowed and is accordingly allowed. The order dated 05.11.1996 passed by respondent No.1 appointing respondent No.3 as Food Inspector is hereby quashed and set aside. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

[M.R.SHAH, J.]

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